

**Notice of Allowability**

Application No.

10/777,249

Examiner

Philip R. Smith

Applicant(s)

NESS, GREGORY O.

Art Unit

3739

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the correspondence of 9/18/2006.
2. ☒ The allowed claim(s) is/are 2-10 and 31-50.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                              |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|   | 9. <input type="checkbox"/> Other _____   |

## **DETAILED ACTION**

### **Reasons for Allowance**

[01] The following is an examiner's statement of reasons for allowance.

[02] Claim 4 is allowable because the Prior Art does not disclose a balloon supported by the header plate substantially surrounds the working lumen exit port and comprises a proximal balloon segment enclosing a proximal balloon segment inflation space and a distal balloon segment enclosing a distal balloon segment inflation space; and the inflation lumen of the access instrument body comprises a proximal balloon segment inflation lumen having an inflation lumen distal end opening into the proximal balloon segment inflation space and a distal balloon segment inflation lumen having an inflation lumen distal end opening into the distal balloon segment, whereby the proximal and distal balloon segments can be selectively inflated by inflation media introduced into the proximal or distal balloon segment inflation space.

[03] Claim 31 is allowable because the Prior Art does not disclose a method which includes: surgically creating an incision into the anatomic space between the first and second anatomic surfaces; inserting the distal header through the incision with the first plate side disposed facing the first anatomic surface; advancing the distal header through the anatomic space between the first and second anatomic surfaces with the first plate side disposed facing the first anatomic surface; inflating the balloon to expand the anatomic space between the first and second anatomic surfaces; introducing one of a visualization instrument through the

working lumen to visualize the anatomic space and the first anatomic surface to select a site of the first anatomic surface, a medical instrument through the working lumen for performing a medical procedure, an implantable medical device through the working lumen into the anatomic space, and a therapeutic drug or diagnostic agent through the working lumen into the anatomic space.

- [04] Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Conclusion**

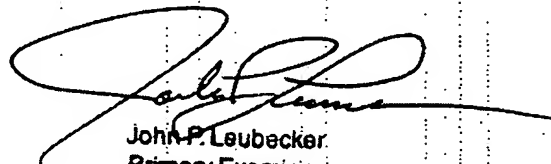
- [05] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip R. Smith whose telephone number is (571) 272 6087. The examiner can normally be reached between 9:00am and 5:00pm.
- [06] If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on (571) 272 4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
- [07] Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to be 'P. S. H.', written in a cursive style.A handwritten signature in black ink, appearing to be 'John P. Leubecker', written in a cursive style.  
John P. Leubecker  
Primary Examiner